IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8900 OF 2005

Kothari Kamgar Committee ... Petitioner

V/s

Kothari Auto Parts Mfg.P.Ltd. & ors. ... Respondents

Mr. Jayendra Khairnar for the petitioner.

Mr. J.P. Cama with A.K. Jalisatgti and Amol B. Desai for the respondent No.1.

CORAM: P.V. KAKADE, J.

DATED: 16TH FEBRUARY, 2006

P.C.:

1. Heard both sides. Perused the record.

2. The petitioner union has challenged the order passed by the Industrial Tribunal, Thane, dated 19.9.2005 dismissing the application Exh.30 in pending Reference (IT) No. 1 of 2004 before the Industrial Tribunal, Thane.

3. The petitioner made an interim application in the pending reference contending that the company is

intending to dispose of its property pending the reference and under the circumstances, if the Company succeeded in disposing of the property, it will be difficult for the workers and the Union to recover its due amount from the Company. Hence it is prayed that the Company be restrained from disposing of the factory premises and not to remove any plant and machinery.

The Company resisted the application by filing the reply Exh.14 contending inter-alia that the union had no locus-standing to make such a request to the Tribunal. It was also denied that the workers of the union are entitled to any relief. All the allegations of the union were denied and respondents sought dismissal of the application.

4. The learned Member, Industrial Tribunal, heard both sides and adjudicated the application on merits holding that there was no ground made out by the petitioner union to seek interim relief and as such the application was rejected and hence the present petition.

5. At the outset, it may be noted that it is not in dispute that the Government has referred the reference to the Tribunal and under Sec.10(4) of the I.D. Act it

would be open for the Tribunal to grant the interim relief in relation to the matters incidental to the point of dispute for adjudication. Apart from this aspect, the lower Court has come to the conclusion that there is absolutely no prima facie case made out on behalf of the petitioner to support their apprehension that the Company was trying to dispose of its property with a view to defeat the claim of the workers of the union. Therefore, it was held that it cannot be said that the union was entitled for any relief.

6. In the course of the argument, the learned counsel for the petitioner also did not substantiate his argument by contending any cogent material on which the apprehension of the petitioner was rested to the effect that the respondents were about to dispose of the assets and property of the factory in any manner whatsoever.

7. Under the circumstances, I do not see any perversity or illegality in the order of the Industrial Tribunal while rejecting the interim application Exh.30.

In the result, the petition has no merits and stands dismissed in limine. No order as to costs.

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